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In re application of

Kouji Harada

Serial No. 10/677,291

Filed: October 3, 2003

For: METHOD OF BONDING METALLIC MEMBERS BY PLASTIC-FLOW BONDING AND PLASTIC-FLOW BONDED BODY

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed March 6, 2006.

On March 6, 2006, a final rejection was mailed by the examiner containing a rejection of all of the elected claims under 35 USC 102 and Obviousness-type Double Patenting. Applicants responded to this office action with a response, including various amendments to the claimed, filed August 7, 2006. The examiner refused entry of the amendment after final rejection in an advisory action mailed August 29, 2006.

On September 6, 2006, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the March 6, 2006 office action.

Applicant's position for the withdrawal of the finality is that the examiner indicated on form PTQL-326 that the action was non-final while the office action stated that the action was final, thereby creating ambiguity as to the status of the office action.

DECISION

Rule 1.181, Section (f) states:

§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

The instant petition was filed six months after the final rejection was mailed. Also, no previous request has been made to withdraw the finality of the office action. This is clearly not a timely filed petition. Accordingly, the instant petition is DISMISSED. It is noted that Applicants have filed a proper Request for Continued Examination concurrently with the instant petition.

The application is being forwarded to the examiner in order to prepare a response to the RCE.

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